



American Civil Liberties Union
of Montana Foundation
Power Block, Level 4
P.O. Box 1317
Helena, MT 59624

February 27, 2006

Lt. Gov. John Bohlinger
Chairman, Corrections Advisory Council
State Capitol
Helena, MT 59620-0801

Dear Lt. Gov. Bohlinger,

After last month's tour of MSP for the Corrections Advisory Council, we felt it might be helpful for the Council to be informed of the current legal status of Langford, et al. v. Schweitzer, CV No. 92-13-H-LBE. As you will recall, the Langford suit was filed by the ACLU in the wake of the 1991 prison riot at MSP. Under the suit, we challenged both inadequate medical programs at the prison, as well as the physical condition of the prison. The federal Court approved a settlement agreement in the case in 1994. Since that time, court-appointed experts have been visiting the prison every year in order to assess whether MSP has come into "substantial compliance" with the standards set forth in the settlement agreement. The 1994 settlement covered medical care, dental care and mental health care. It also covered over-crowding and other "corrections" issues at the prison, including whether the prison was in compliance with the Americans with Disabilities Act.

Many of these issues have been resolved in the last ten years and dismissed from the suit as being within the "substantial compliance" standard. On October 17, 2005, the Court dismissed from the law suit, with no objection from the Plaintiffs, the "patient referrals" provision of the settlement agreement, finding that MSP had come into substantial compliance with the standards outlined in the Settlement Agreement. The medical, dental and mental health care requirements of the settlement agreement have thus been fulfilled.

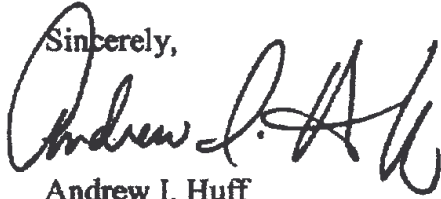
However, there is one remaining corrections provision from the law suit that has not yet been dismissed – whether the prison is in compliance with the ADA. On January 26, 2006, the federal Court denied the State's motion to dismiss this remaining provision of the law suit, and granted the Plaintiffs' motion to enter a schedule for the resolution of this last issue. We just received notice today that the State is appealing to the Ninth Circuit the federal Court's denial of its motion to dismiss this last provision. **We are extremely disappointed that the State has chosen to appeal the Court's decision, rather than work with the Plaintiffs to bring MSP into compliance with the ADA.**

While conditions at the Prison have improved and the staff at MSP must be congratulated for their hard work, **we remind the Council that constant vigilance is**



necessary to ensure that these improvements remain in place. We understand that MSP recently lost the services of Doctor Ramakrishna, and that he has not yet been replaced. We of course are concerned that his departure may adversely affect the improvements to the program made during his tenure. The ACLU receives daily complaints from inmates at MSP, and we monitor conditions there very closely.

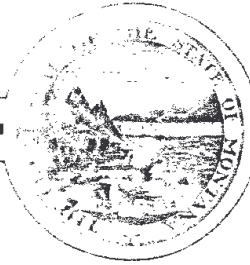
Sincerely,

A handwritten signature in black ink, appearing to read "Andrew I. Huff". The signature is fluid and cursive, with a large initial "A" and "H".

Andrew I. Huff
Attorney

cc: members, Corrections Advisory Council

DEPARTMENT OF CORRECTIONS



BRIAN SCHWEITZER, GOVERNOR

155 N. CAVENUE

STATE OF MONTANA

(406) 444-3930
FAX (406) 444-4920

P.O. BOX 201301
HELENA, MONTANA 59620-1301

April 5, 2006

Lt. Gov. John Bohlinger
Helena, MT 59624

Dear Lt. Gov. Bohlinger:

I am writing to explain the position of the Department of Corrections concerning the ACLU lawsuit discussed in Mr. Huff's letter of Feb. 27, 2006. The letter was distributed at a meeting of the Corrections Advisory Council subcommittee that day, and you have asked that it be distributed to the full council at its April 7 meeting. I believe this letter should be shared with the council along with Mr. Huff's letter.

As you know, the ACLU filed a lawsuit in 1992 regarding prison conditions in the wake of the September 1991 riot at Montana State Prison. In 1994, the parties entered into a settlement agreement to resolve all the claims, rather than holding a trial in the case. The parties agreed that monitors would review the prison's progress and make a report to the court regarding the prison's ability to attain "substantial compliance" with the various provisions of the settlement, including medical and dental care, mental health care and diverse prison "conditions."

Following court approval of the agreement, the parties entered into stipulations to dismiss numerous provisions of the agreement after the monitors found the prison was in substantial compliance.

For other provisions that the prison had not met, the parties agreed to extend jurisdiction and continue monitoring. The agreement called for a court order to continue jurisdiction, should the court determine the ACLU had proven "substantial and widespread" failure to meet the terms of the agreement. Since September 1996, the parties agreed to continue jurisdiction over certain medical care provisions pending a finding of sustained compliance.

In 2005, the prison reached substantial compliance with the final remaining medical provision. The parties did not agree to extend jurisdiction over any other provisions, and the department firmly believes that all terms and conditions set forth in the agreement have been satisfied as stipulated in the agreement.

The department's belief was bolstered by the fact that in March 2002 the federal court ordered the parties to submit status reports to indicate to the court what

other issues remained in the suit to be resolved before the case could be dismissed. The ACLU's status report identified only one provision that remained to be resolved—the medical care provision that was resolved in 2005.

However, in a June 2005 report to the court, the ACLU asserted a number of non-medical provisions remained – provisions that had not been formally dismissed, and over which jurisdiction had not been extended. The parties briefed the issue of what really remained in the suit. The ACLU argued, as it did in the June report to the court, that 10 provisions remained open in the lawsuit. The department argued that nothing remained because the court had not extended jurisdiction over any other provision of the agreement either by request of the parties or upon motion of the ACLU.

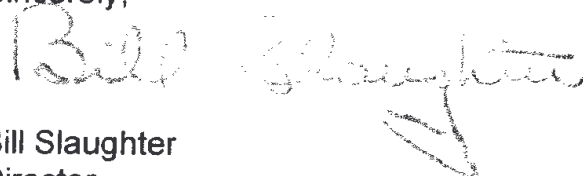
Although the ACLU argued in its briefs that 10 issues remained to be decided, U.S. Magistrate Erickson read and considered the parties' briefs and then ruled that there remained only one issue in the lawsuit, that of ADA (Americans with Disabilities Act) compliance. The department carefully analyzed Magistrate Erickson's ruling, and decided to pursue an appeal of the magistrate's ruling to the 9th U.S. Circuit Court of Appeals.

We believe the prison is currently in compliance with ADA requirements. The issue appealed is with regard to compliance issues dating back to 1996 and before. That issue, based on the law, should be dismissed. That issue, as a matter of justice and fairness, should be dismissed.

The department is concerned about the cost of continuing this suit for years more. During the past 11 years, Montana taxpayers have paid the ACLU more than \$749,000 in attorney fees and costs related to its involvement in this lawsuit. We believe tax dollars could be better spent on prison operations as opposed to legal fees of the National Prison Project.

The prison has complied with all of the settlement provisions, and it is time to bring closure to the 1991 prison riot and related litigation. It is time to acknowledge that we, in Montana, are privileged to have a team of competent correctional professionals managing and working in the state's corrections system. They have done their jobs and Montanans should understand that.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill Slaughter".

Bill Slaughter
Director

LANGFORD ATTORNEY'S FEE CLAIMS AND PAYMENTS

Description	Amount Requested	Amount Paid	Docket Reference
1st Request, 1995 (Doc. No. 487)	\$ 403,772.69	Awarded: \$332,131.44 Paid: \$315,000.00	797 928
2nd Request, 1998 (4/1/96 - 9/9/98) (Doc. No. 1161)	\$ 249,083.41	\$ 153,032.72	1215-1217
3rd Request, 2000 (9/9/98 - 6/30/00) (Doc. No. 1228)	\$ 116,279.11	\$ 115,592.61	1242, 1243
4th Request, 2001 (7/14/00 - 6/9/01) (Doc. No. 1252)	\$ 48,234.94	\$ 40,402.00	1260
5th Request, 2002 (6/10/01 - 7/16/02) (Doc. No. 1271)	\$ 67,011.51	\$ 55,519.20	1280
6th Request, 2003 (7/17/02 - 11/16/03) (Doc. No. 1288)	\$ 73,328.25	\$ 42,000.00	1299
STIPULATION ENTERED RE FEE REQUESTS			1306
7th Request, 2004 (11/2/03 - 3/31/04)	\$ 1,897.77	\$ 1,565.80	
8th Request, 2004 (4/1/04 - 6/15/04)	\$ 1,432.06	\$ 1,260.56	
9th Request, 2004 (6/16/04 - 10/15/04)	\$ 22,749.91	\$ 21,588.00	
10th Request, 2004 (10/16/04 - 12/15/04)	\$ 1,097.16	\$ 867.48	
11th Request, 2005 (12/16/04 - 4/30/05)	\$ 2,537.50	\$ 2,187.41	
12th Request, 2005 (5/1/05 - 12/31/05)	\$ 24,701.67	\$ -	
TOTAL - INCLUDING 12TH REQUEST	\$ 1,012,125.98		
TOTAL - EXCLUDING 12TH REQUEST	\$ 987,424.31	\$ 749,015.78	